

1 Bradley A. Chapin (State Bar No. 232885)
bchapin@rutan.com
2 Lucas K. Hori (State Bar No. 294373)
lhori@rutan.com
3 RUTAN & TUCKER, LLP
611 Anton Boulevard, Suite 1400
4 Costa Mesa, California 92626-1931
Telephone: 714-641-5100
5 Facsimile: 714-546-9035

6 Attorneys for Defendant
7 QUALITY IS OUR RECIPE, LLC

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 MACARIUS RIZK, individually, and on
behalf of all others similarly situated,

12 Plaintiff,

13 vs.
14

15 QUALITY IS OUR RECIPE, LLC; and
DOES 1 through 10, inclusive.

16 Defendants.
17
18

Case No. 2:19-cv-00852-DMG-E

Hon. Dolly M. Gee

**NOTICE OF MOTION AND
MOTION TO DISMISS FIRST
AMENDED COMPLAINT**

Hearing

Date: June 28, 2019

Time: 9:30 a.m.

Courtroom: 8C (8th Floor – First Street
Courthouse)

19
20
21
22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 *TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:*

2 *PLEASE TAKE NOTICE THAT*, on June 28, 2019, at 9:30 a.m., or as soon
 3 thereafter as the matter may be ruled upon, in Courtroom 8C of the above-
 4 referenced Court, located at 350 West 1st Street, Los Angeles, California, 90012,
 5 defendant Quality Is Our Recipe, LLC (“Defendant”) will, and hereby does, move to
 6 dismiss all claims in plaintiff Macarius Rizk’s (“Plaintiff”) First Amended
 7 Complaint (“FAC”). The FAC is subject to dismissal under Rule 9(b) and Rule
 8 12(b)(6) of the Federal Rules of Civil Procedure because it fails to meet the requisite
 9 heightened pleading standard. Plaintiff’s claims are all fraud-based, and Plaintiff
 10 has failed to plead facts with sufficient particularity to state any claim on which
 11 relief can be granted. Among other things, the FAC does not cite one word of
 12 specific *content* from any alleged false representations, nor does it even generally
 13 indicate where those representations were *located*. Further, Plaintiff does not allege
 14 *when* specifically he saw the alleged false advertising and he similarly fails to allege
 15 any detail as to his *own* transactions.

16 This motion is made following the conference of counsel pursuant to the
 17 Central District’s Local Rule 7-3, which took place on May 22, 2019.

18 Defendant’s Motion is based on this Notice of Motion, the attached
 19 Memorandum of Points and Authorities, all records and pleadings filed in this
 20 action, and upon such matters as may be provided at oral argument.

21
 22 Dated: May 31, 2019

RUTAN & TUCKER, LLP
 BRADLEY A. CHAPIN
 LUCAS K. HORI

23
 24 By: /s/ Bradley A. Chapin

25 Bradley A. Chapin
 26 Attorneys for Defendant
 27 Quality Is Our Recipe, LLC
 28